Curtailment of damage to security

3063. SHRI M.V. MYSURA REDDY: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to refer to the answer to Unstarred Question 1050 given in the Rajya Sabha on the 3rd August, 2006 and state:

(a) the need to drop riders for 74 per cent FDI in telecom companies compromising out security and thereby to their secret services;

(b) the measures Government intend to take to curtail the damage to security which is likely to occur;

(c) the reasons for using the services of telecom operators having higher foreign equity shareholding by the PMO, Council of Ministers, officials of the rank of Joint Secretary and above, Defence forces, IB, CBI, and

(d) the reasons for not using the services of MTNL/BSNL?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD): (a) and (b) The telecom service providers and other stakeholders had raised various issues concerning the conditions contained in the Press Note No. 5 (2005 Series) dated 03-11-2005, *vide* which FDI limit was raised to 74% in telecom sector. To enable a sustainable growth in Telecom Sector and also in IT sector which is dependent on telecom, Government has reviewed the FDI guidelines and issued revised guidelines *vide* Press Note No. 3 (2007 Series) dated 19-04-2007. In order to ensure security of the network, the Press Note 3 (2007) has prescribed stringent security measures to be followed by all the telecom service providers. The copy of the Press Note is given in the statement (*See* below).

(c) and (d) All the operators are providing services based on same license conditions and they are competing with each other in terms of quality of service, tariff including security of communications on their network.

Statement

Copy of the Press Note No. 3
Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)

PRESS NOTE NO. 3 (2007 SERIES)

Subject : Enhancement of the Foreign Direct Investment ceiling from 49 per cent to 74 per cent in the Telecom sector-revised guidelines

The Government, *vide* Press Note 5 (2005 Series) dated 3.11.2005, had notified the enhancement of Foreign Direct Investment (FDI) limits from 49 per cent to 74 per cent in certain telecom services subject to specified conditions.

2. The Government has on a review of the policy in this regard, decided to enhance the Foreign Direct Investment limit from 49 per cent to 74 per cent in telecom services subject to the following conditions;

A. Foreign Direct Investment (FDI):

(i) The enhancement of the FDI ceiling will be applicable in case of Basic, Cellular, Unified Access Services, National/International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added Services.

(ii) Both direct and indirect foreign investment in the licensee company shall be counted for the purpose of FDI ceiling. Foreign Investment shall include investment by Foreign Institutional Investors (FIIs) Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entity. Indirect foreign investment shall mean foreign investment in the company/companies holding shares of the licensee company and their holding company/companies or legal entity (such as mutual funds trusts) on proportionate basis. Shares

of the licensee company held by Indian public sector banks and Indian public sector financial institutions will be treated as 'Indian holding'. In any case, the 'Indian' shareholding will not be less than 26 per cent.

(iii) FDI up to 49 per cent will continue to be on the automatic route. FDI in the licensee company/Indian promoters/investment companies including their holding companies, shall require approval of the Foreign Investment Promotion Board (FIPB) if it has a bearing on the overall ceiling of 74 per cent. While approving the investment proposals, FIPB shall take note that investment is not coming from countries of concern and/or unfriendly entities.

(iv) The investment approval by FIPB shall envisage the conditionality that Company would adhere to licence Agreement.

(v) FDI shall be subject to laws of India and not the laws of the foreign country/countries.

B. Security Conditions:

(i) The Chief Officer Incharge of technical network operations and the Chief Security Officer should be a resident Indian citizen.

(ii) Details of infrastructure/network diagram (technical details of the network) could be provided on a need basis only to telecom equipment suppliers/manufacturers and the affiliate/parents of the licensee company. Clearance from the licensor (Department of Telecommunications, Government of India) would be required if such information is to be provided to anybody else.

(iii) For security reasons, domestic traffic of such entities as may be identified/specified by the licensor shall not be hauled/routed to any place outside India.

(iv) The licensee company shall take adequate and timely measures to ensure that the information transacted through a network by the subscribers is secure and protected.

(v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.

(vi) The majority Directors on the Board of the company shall be Indian citizens.

(vii) The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.

(viii) The Company shall not transfer the following to any person/place outside India:—

(a) Any accounting information relating to subscriber (except for international roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature); and

(b) User information (except pertaining to foreign subscribers using Indian Operator's network while roaming).

(ix) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavour to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.

(x) On request of the licensor or any other agency authorised by the licensor, the telecom service provider should be able to provide the geographical location of any subscriber (BTS location) at a given point of time.

(xi) The Remote Access (RA) to Network would be provided only to approved location(s) abroad through approved location(s) in India. The approval for location(s) would be given by the Licensor (DOT) in consultation with the Security Agencies (IB).

(xii) Under no circumstances, should any RA to the suppliers/ manufacturers and affiliate(s) be enabled to access Lawful Interception System(LIS), Lawful Interception Monitoring(LIM), Call contents of the traffic and any such sensitive sector/data, which the licensor may notify from time to time.

(xiii) The licensee company is not allowed to use remote access facility for monitoring of content.

(xiv) Suitable technical device should be made available at Indian end to the designated security agency/licensor in which a mirror image

of the remote access information is available on line for monitoring purposes.

(xv) Complete audit trail of the remote access activities pertaining to the network operated in India should be maintained for a period of six months and provided on request to the licensor or any other agency authorised by the licensor.

(xvi) The telecom service providers should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location.

(xvii) The telecom service providers should familiarize/train Vigilance Technical Monitoring (VTM)/security agency officers/officials in respect of relevant operations/features of their systems.

(xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle.

(xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of States/Union Territories.

(xx) For monitoring traffic, the licensee company shall provide access of their network and other facilities a well as to books of accounts to the security agencies.

(xxi) The aforesaid Security Conditions shall be applicable to all the licensee companies operating telecom services covered under this Press Note irrespective of the level of FDI.

(xxii) Other Service Providers (OSPs), providing services like Call Centres, Business Process Outsourcing (BPO), tele-marketing, tele-education, etc, and are registered with DoT as OSP. Such OSPs operate the service using the telecom infrastructure provided by licensed telecom service providers and 100% FDI is permitted for OSPs. As the security conditions are applicable to all licensed telecom service providers, the security conditions mentioned above shall not be separtely enforced on OSPs.

3. The conditions at para 2 above shall also be applicable to the existing companies operating telecom service(s) with the FDI cap of 49%.

4. The relevant provisions of FDI policy for 'investment companies', as given in Press Note 2 (2000 series) dated 11.2.2000 issued by Department of Industrial Policy and Promotion will no longer be applicable to telecom sector.
5. Press Note 15 (1998 series) and Press Note 2 (2000 Series) issued by Department of Industrial Policy & Promotion stand modified to the above extent.
6. An unconditional compliance to the aforesaid conditions shall be submitted by the existing telecom service providers to the licensor within 3 months from date of the Press Note and, thereafter, compliance report shall be submitted on 1st day of July and January on six monthly basis.
7. Press Note 5 (2005 Series) dated 3.11.2005 stands superceded by this Press Note.

(Gopal Krishna)
Joint Secretary to the Government of India

F. No. 12/2/2006-FC dated the 19th April, 2007

Copy forwarded to Press Information Officer, Press Information Bureau, for giving wide publicity to the above Press Note.

Cost per line for GSM and CDMA

3064. SHRI M.V. MYSURA REDDY: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased state:

(a) what is the cost per line for GSM and CDMA;

(b) if so, the cost per line for BSNL in the recent tender of GSM; and

(c) if so, whether it is a fact that private operators are able to buy at US$40/fine?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD): (a) Average cost of GSM 2G equipment as per previous orders of BSNL has been around Rs. 3200.00 per line. The cost of CDMA equipment, as per recent tender of BSNL is Rs. 2024.00 per line.